

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

RED RIVER INNOVATIONS LLC,

Plaintiff,

V.

MENARD, INC.,

Defendant.

Civil Action No. 2:16-cv-317

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Plaintiff, Red River Innovations LLC (“RRI”), makes the following allegations against Defendant Menard, Inc. (“Menard” or “Defendant”):

THE PARTIES

1. Plaintiff RRI is a Texas limited liability company having its principal place of business at 7 Legato Way, The Woodlands, Texas 77382.

2. On information and belief, Menard is a Wisconsin corporation having its principal place of business at 5101 Menard Drive, Eau Claire, Wisconsin 54703.

NATURE OF THE ACTION

3. This is a civil action for the infringement of United States Patent No. 7,958,138 (“the ’138 Patent”) (or, “the Patent-in-Suit”) under the Patent Laws of the United States 35 U.S.C. § 1 *et seq.*

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United

States, including 35 U.S.C. § 271, *et seq.*

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b). On information and belief, Defendant, directly and/or through subsidiaries or intermediaries, has transacted business in this District, and has committed acts of patent infringement in this District.

6. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including (i) at least a portion of the infringements alleged herein; and (ii) directly and/or through subsidiaries or intermediaries, regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

THE PATENT-IN-SUIT

7. On June 7, 2011, the USPTO duly and legally issued the '138 Patent entitled "Method And Apparatus For Enhancing Electronic Reading By Identifying Relationships Between Sections Of Electronic Text." A true and correct copy of the '138 Patent is attached as Exhibit A.

8. RRI owns the '138 Patent and holds the right to sue and recover damages for infringement thereof, including past infringement.

COUNT 1: INFRINGEMENT OF THE '138 PATENT

9. Paragraphs 1-8 are incorporated by reference as if fully restated herein.

10. Defendant, directly or through intermediaries, has used, made, developed, published, distributed, advertised and/or operated websites, including, but not limited to, www.menards.com.

11. Defendant has been and is now directly infringing and/or indirectly infringing the '138 Patent by way of inducement, literally and/or under the doctrine of equivalents, in this

District, and elsewhere, in violation of 35 U.S.C. § 271, by, among other things, using, making, developing, publishing, distributing, advertising and/or operating in the United States websites that identify and provide additional reading material related to a concept within requested electronic text, including, but not limited to www.menards.com, which is covered by at least claims 1, 3, 4, 6, 12, 22-23 and 25 of the '138 Patent. For example, after a request for electronic text through the search box located at www.menards.com, the system automatically identifies and graphically presents additional reading material that is related to a concept within the requested electronic text.

12. Defendant has had knowledge of the '138 Patent, as well as the fact that its customers use Defendant websites that infringe the '138 Patent, since at least September 30, 2015. On September 30, 2015, Plaintiff informed Paul H. Mahler, Defendant's General Counsel, that "the search box at www.menards.com incorporates features and functionality that infringe at least claim 1 of RRI patent 7,958,138."

13. On information and belief, Defendant actively induces customers, distributors, retailers and/or end users of its websites to infringe the '138 Patent by, among other things, advertising and promoting its websites, including, but not limited to, www.menards.com.

14. On information and belief, Defendant engages in the foregoing activities because it specifically intends customers, distributors, retailers and/or end users to use, make, develop, publish, distribute, advertise and/or operate websites covered by at least claims 1, 3, 4, 6, 12, 22-23 and 25 of the '138 Patent.

15. On information and belief, through Defendant's policies and practices of not investigating whether its products and services infringe the patents of others, Defendant intentionally took steps to avoid learning the extent of its infringement of the '138 Patent.

16. RRI has been damaged by Defendant's infringement of the '138 Patent.

PRAYER FOR RELIEF

Wherefore, Plaintiff RRI respectfully requests that this Court enter judgment against Defendant as follows:

- a) adjudging that the Defendant has infringed, literally or under the doctrine of equivalents, the '138 Patent;
- b) awarding RRI the damages to which it is entitled under 35 U.S.C. § 284 for Defendant's infringement;
- c) awarding RRI attorneys' fees pursuant to 35 U.S.C. § 285;
- d) awarding RRI pre-judgment and post-judgment interest on its damages; and
- e) awarding RRI such other and further relief in law or equity that the Court deems just and proper.

DEMAND FOR JURY TRIAL

RRI hereby demands a trial by jury on all claims and issues so triable.

Dated: March 31, 2016

Respectfully submitted,

By: /s/ Eric H. Findlay

Eric H. Findlay
State Bar No. 00789886
Walter W. Lackey, Jr.
State Bar No. 24050901
Findlay Craft, P.C.
102 N. College Ave, Ste. 900
Tyler, TX 75702
903-534-1100 (t)
903-534-1137 (f)
efindlay@findlaycraft.com
wlackey@findlaycraft.com

Bradford J. Black
Texas Bar No. 24086243

Andrew G. Hamill
California Bar No. 251156
BLACK & HAMILL LLP
4 Embarcadero Center, Ste. 1400
San Francisco, CA 94111
Email: bblack@blackhamill.com
Email: ahamill@blackhamill.com
Tel: (415) 813-6210
Fax: (415) 813-6222

**ATTORNEYS FOR PLAINTIFF
RED RIVER INNOVATIONS LLC**